



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

GARY WISE, §
Petitioner, §
§
vs. § CIVIL ACTION NO. 6:07-596-HFF-WMC
§
SOUTH CAROLINA DEPARTMENT OF §
CORRECTIONS, §
Respondent. §

ORDER

Petitioner Gary Wise's "Notice of Right to Appeal" was received by the Court on March 1, 2007. He is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the petition be dismissed, without prejudice, and without requiring Respondent to file a return. The Report is made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on April 19, 2007, and Petitioner's objections to the Report were received by the Clerk of Court on May 2, 2007. The Court has reviewed Petitioner's objections, but finds them to be without merit.

Accordingly, after a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Petitioner's objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of this Court that the petition be **DISMISSED**, without prejudice, and without requiring Respondent to file a return.

IT IS SO ORDERED.

Signed this 2nd day of May, 2007, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.